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SUBJECT: AMBASSADOR'S COMMENT ON GABON'S 2008 TIP RANKING

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LIBREVILLE 0146

1. (SBU) Allow me to weigh in personally on the question of Gabon's TIP ranking. I am sorry that I was away presenting credentials in Sao Tome last week when much of the dialogue on this issue occurred.

2. (SBU) Gabon's TIP record is not perfect, but a fair reading of its record in 2007 shows significant improvement. I will try to avoid repeating evidence that we have previously submitted (reftels) and focus on new information that we have been able to gather.

3. (U) We respectfully request that the Department consider the following points:

--Gabon's record on prevention is good: public awareness campaigns, an appropriate legal framework, vigorous intervention in regional fora on trafficking issues, a well-used government-funded call center to report suspected trafficking, good follow-up by the police and relevant ministries.

--Gabon's record on protection is also very good: four well-run reception centers, one of which is government-owned, and very close government collaboration (including extensive police assistance) with the centers run by NGOs.

--Police are also instrumental in forcing suspected traffickers to pay the cost of repatriation (up to USD 000).

--We just learned this weekend that the government assisted in the repatriation of approximately 160 victims last year (we had not previously provided this number). These repatriations represent a significant commitment of government resources, particularly by the police.

--Gabon's record of "investigation, prosecution, conviction and sentencing" needs to be considered within the broader context of the Gabonese legal system.

--The government arrested 16 suspected traffickers in 2007. Five (some of whom were physically handicapped) were released on what were essentially humanitarian grounds. Three escaped. Eight more are in detention while the courts investigate the charges against them.

--We do not have a clear picture of the status of 22 persons arrested prior to 2007. However, we believe that all of these persons are still in the prosecution process.

--The nature of criminal investigation and prosecution in Gabon differs significantly from the U.S. legal system.

--Shortly after arrest, a judge (not the police, not "prosecutors") takes over the case and begins an investigation. The judge has broad authority to order the detention of a person while the investigation proceeds.

--The purpose of the investigation is to establish the facts of the case. If at any point the judge believes that there is no basis for holding the arrested person, the person is released. Continued detention is therefore a reflection of the fact that the judge, considering the evidence that is being gathered, believes that there is a credible case. The judicial investigation, and the associated detention of arrested persons, is therefore an integral part of the prosecution process in Gabon.

--The prosecution/judicial investigation process is still underway for most of the persons arrested so far for trafficking offenses in Gabon. In the case of the 2007 arrests, for instance, the eight arrested persons have now been in jail for 10 months. This is very close to the "one year" minimum penalty the Department suggests for persons convicted of trafficking. Those arrested in 2006 have been in jail longer than one year.

--Detention during investigation is sanctioned by the courts, consistent with due process, and also a de facto punishment. Pretrial detention is limited to six months for a misdemeanor and one year for a criminal offense (such as trafficking). The detention period may be extended for six months by the examining judge, who does so on the basis that the investigation is continuing to develop credible evidence against the accused.

--When the examining judge completes an investigation--a process that can take months or even years--he or she then recommends whether or not the case should go forward to a tribunal. A different judge (the "president") presides over the tribunal.

--Concerning Gabon's commitment to arrest, investigate, prosecute and convict, we can conclude the following: At minimum, Gabon is vigorously arresting, investigating and prosecuting trafficking cases. The lack of "convictions" is largely a function of Gabon's protracted legal system. These cases are not being processed more quickly, or more slowly, than others in the legal system.

--There is, as we have reported, a proposal to dedicate judges for two-year terms to work on trafficking and related cases in an effort to process these cases more quickly.

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CONCLUSION  
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14. (SBU) Taken together, Gabon's law enforcement efforts represent a serious commitment of government resources to combating the trafficking problem. This includes a serious commitment to recoup the cost of repatriation from suspected traffickers, and to prosecute the most egregious cases. Moreover, a close examination of the Gabonese legal system reveals a serious commitment to keeping suspects against whom there is well-founded, judicially-reviewed evidence of involvement in trafficking in jail and off the streets until the cases are resolved.

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